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VIA HAND DELIVERY

Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Petition for Exemption of Certain Services*
Docket No. 03-00391

Dear Chairman Tate:

Enclosed are the original and fourteen copies of *Petitioners' Comments Regarding Exemption from Regulation Regarding IntraLATA Toll Service*. Copies of the enclosed are being provided to counsel of record.

Cordially,



Joelle Phillips

JJP:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Petition for Exemption of Certain Services*

Docket No. 03-00391

**PETITIONERS' COMMENTS REGARDING EXEMPTION
FROM REGULATION REGARDING INTRALATA TOLL SERVICE**

BellSouth Telecommunications, Inc. ("BellSouth") and Citizens Communications, Inc. ("Citizens") (collectively "Petitioners") file these *Comments* in support of the *Petition for Exemption of Certain Services*, specifically the request relating to the exemption from regulation of intraLATA toll service.

T.C.A. § 65-5-208(c) establishes a process for reducing regulation of services and notes specifically that the TRA shall exempt services from regulation when existing and future competition is sufficient to regulate the price of such services. IntraLATA toll services presents a compelling example of a service ripe for relief under this statute.

I. IntraLATA Toll Service is Competitive in Tennessee.

Toll service, both interLATA and intraLATA, is exceedingly competitive today. Not only are numerous companies engaged in the competitive process of providing wireline toll service to Tennesseans, but today Tennesseans have many other choices, other than traditional wireline service when they seek to make a long distance call, whether interLATA or intraLATA. Competition from these other sorts of services, known as "intermodal" competition, has had a particularly important impact on the competitive nature of long distance rates generally and intraLATA toll rates specifically. Moreover,

as AT&T has stated in its *Comments* filed on January 12, "Today, large numbers of customers can – and do – switch from one toll carrier to another at minimal expense with no interruption of service." *Comments* at 4.

Today in Tennessee, when an end-user wishes to make an intraLATA toll call, that customer has a variety of options, and the providers of those options are engaged in fierce competition to provide the best product at the lowest possible price for that customer. Whether the customer chooses intraLATA toll service from its local provider or from its long distance provider, whether the customer chooses to use their wireless telephone to make such a call, whether the customer chooses to use a prepaid long distance calling card to make that call, or even resorts to new technology, such as voice over IP to make that call, each of these choices provides the caller with an array of options, each of which represents a competitor fighting to attract that end-user by offering a compelling price.

II. The Relief Sought by Petitioners

The General Assembly has afforded the TRA great flexibility to fashion exemption relief, stating that the TRA may exempt a service from "all or part" of the requirements contained in Tennessee's Telecommunications Act. T.C.A. § 65-5-208(b). While the statute also permits the TRA to exempt a service offered by an ILEC from the price floor (T.C.A. 65-5-208(c)), the Petitioners here do not seek an exemption permitting them to offer below-cost intraLATA toll service.

There can be no serious argument that intraLATA toll service is not a service for which "existing and potential competition is an effective regulatory of price". T.C.A. 65-5-208(b). Consequently, it is a service that should be exempted under Section 208.

Fashioning a specific order tailoring that exemption to avoid, for example, below-cost pricing is simply a matter for legal word-smithing. Such word-smithing could be accomplished, for example, by seeking proposed orders from the parties for the TRA's review as discussed below.

III. The Type of Procedural Process Needed

Petitioners believe that no evidentiary process is needed to evaluate the substantive issue of whether intraLATA toll service is a competitive service for which competition is an effective regulator of price. Clearly, it is. Nonetheless, Petitioners are prepared to proceed with an evidentiary hearing to present testimony establishing the competitive status of this service.

If, however, there are no objections to dispensing with the exercise of proving the competitive nature of intraLATA toll service in Tennessee, then BellSouth would propose instead a "paper hearing", in which parties desiring to participate submit a proposed order and a supporting brief explaining the basis for the proposed order on the exemption of intraLATA toll service. In this way, the focus of the docket could be placed upon the fashioning of the exemption, rather than on unnecessarily debating the facts about the competitive nature of intraLATA toll service in Tennessee.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2004, a copy of the foregoing document was served on the parties of record, via the method indicated:

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